

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

NANCY BRICKER

Plaintiff,

v.

Case Number 06-10044-BC
Honorable Thomas L. Ludington

AUSABLE VALLEY COMMUNITY
MENTAL HEALTH SERVICES, HOLLIE
MCDONALD, LEE D. MERTZ, and
FLOYD R. SMITH

Defendants.

**CORRECTED ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION, GRANTING DEFENDANTS'
MOTION TO DISMISS, AND DISMISSING CASE**

This matter is before for the Court on a report issued by Magistrate Judge Charles E. Binder on October 31, 2006, recommending that the defendants' motion to dismiss be granted because the plaintiff could not demonstrate a property right in continued employment under the Fourteenth Amendment. The magistrate judge further suggested that the plaintiff's claims arising under state law be dismissed without prejudice because no federal question otherwise would be present, and the Court ought not exercise supplemental jurisdiction under the circumstances.

Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The plaintiff's failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S.

140, 149 (1985). However, the Court agrees with the conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation is **ADOPTED**, the defendants' motion to dismiss [dkt # 9] is **GRANTED**, and the plaintiff's claim arising under 42 U.S.C. § 1983, count one of the plaintiff's amended complaint, is **DISMISSED WITH PREJUDICE**. The plaintiffs claims arising under state law, the remaining counts contained in the first amended complaint, are **DISMISSED** without prejudice.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: December 7, 2006

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on November 20, 2006.

s/Tracy A. Jacobs
TRACY A. JACOBS